



MINUTES

Monday, June 16, 2014

**WORK SESSION
FORT MYERS BEACH TOWN COUNCIL
and
JOINT WORK SESSIONS
with the
AUDIT COMMITTEE & BAY OAKS RECREATIONAL
CAMPUS ADVISORY BOARD
TOWN HALL – COUNCIL CHAMBERS
2523 ESTERO BOULEVARD
FORT MYERS BEACH, FLORIDA 33931**

I. CALL TO ORDER

Mayor Mandel called to order the June 16, 2014 Work Session of the **Fort Myers Beach Town Council** and Joint Meetings with the Audit Committee and Bay Oaks Recreational Campus Advisory Board at 10:03 a.m. Present along with Mayor Cereceda: Vice Mayor Andre, Council Members Hosafros, Mandel, and Stockton; **Audit Committee** Chair Rodwell and Audit Committee Members present were Dan Hughes and Ed Lombard; **Bay Oaks Recreational Campus Advisory Board** Chair Simpson and BORCAB Member Tom Myers. Also Present: Town Manager Stilwell, Town Attorney Rooney, Finance Director Wicks, Public Works Director Baker, Parks & Recreation Director Norton, and Town Clerk Mayher.

II. PLEDGE OF ALLEGIANCE

III. PRESENTATION – 2014 Legislative Session Summary, Keith Arnold, Government Relations Professional with Buchanan Ingersoll Rooney/Fowler White Boggs

Attorney Arnold of Fowler White Boggs noted the merger of the Fowler White Boggs with Buchanan Ingersoll & Rooney. He briefly reviewed some of the firm's staff who worked with him lobbying on the Town's behalf [as included in the 2014 Town of Fort Myers Beach Legislative Summary dated June 16, 2014]. He noted the past Session was 'quiet' [lawmakers passed 229 out of the 1,540 general bills introduced this Session]. He noted that he worked heavily with the Florida League of Cities on local mandates. He gave a synopsis of the Town of Fort Myers Beach 2014 Legislative Summary and discussion ensued with himself and Council:

- **Communications Services Tax (CST)** – suggested Council look at finding an alternative to the subject tax; noted the new forms of communications (i.e. cell phones) were not subject to the CST, so CST revenues were declining.
- **Local Business Tax** – provisions reducing or eliminating the Local Business Tax **failed** to pass in 2014, languages included in the Tax Cut and Economic Development package (HB 5601) **passed**, which authorized municipalities to reduce or repeal their existing local business taxes by a majority vote.
- **Affordable Housing** – more affordable housing projects in the State.
- **Offshore Drilling in Gulf of Mexico** – no action was taken on offshore drilling this Session; and fracking has become a volatile high-profile issue. Discussion was held regarding the **failure** of HB 71 and the fracking in Collier County.
- **Lake Okeechobee Basin Projects** - \$18,000,000 was funded through Senator Benaquisto for the C-43 Reservoir Project; and the Legislature funded \$232,000,000 for Lake Okeechobee, Caloosahatchee, and Indian River Lagoon related projects out of which southwest Florida received approximately \$25-30 million dollars for Lake Okeechobee–Caloosahatchee River clean-up and the remaining funding went to the Kissimmee River and Indian River Lagoon; there is a need for a regional approach to the water issue and to identify other public works programs that would benefit the Caloosahatchee River that were more financially attainable/reasonable; there is a need to identify water projects locally and all the way 'up-stream' that would be potential opportunities for State funding (i.e. Town's wastewater and stormwater projects would fall into that category); and discussion was held on 'mandatory septic tank inspections'.
- **Florida Recreation Development Assistance Program (FRDAP)** - \$2.5 million was provided in the FY 2014-15 Budget for the FRDAP Priority List for Small Projects Fund.
- **Transportation Funding** - \$10.1 billion was allocated for Department of Transportation related programs this Session.
- **Transportation Disadvantaged** – transportation services for a vast majority of Medicaid-eligible recipients was transferred from the Transportation Disadvantaged to managed care organizations; and Good Wheels may or may not continue to be the Medicaid provider in the county.
- **Local Government Pensions** – local pension bills SB 246/HB 7181 **failed** to pass this Session; does not impact Town.
- **Senate Bill 356** – local governments could not regulate the duration of local vacation rentals with a net effect that any local ordinance on vacation rentals was acceptable as long as it did not try to set a time benchmark; however, the Town could deal with some of the other issues (i.e. noise, parking, landscaping, etc.); and grandfathering of the existing vacation rental ordinance.
- **Ethics** – city/town council members [municipal officers] were required to take four hours of ethics courses beginning next year.

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He explained he would work with Town staff and each member of Town Council to identify and develop a legislative agenda for next year (i.e. stormwater projects, infrastructure projects). He pointed out the Legislature gave local governments the ability to raise sales taxes for infrastructure needs but it was predicated on the County moving forward with a referendum and revenue sharing agreement. He reported Mound Key was excluded from the Estero incorporation issue; and that the State was interested in working with the Town to incorporate Mound Key into the Town and to find a solution for the McGee property. He reported a referendum would be on the November ballot for the incorporation of Estero.

Discussion was held concerning the issue of medical marijuana and the problems states were encountering since it was permitted (i.e. Colorado); how a Florida Constitutional amendment required 60% approval; the National Flood Insurance Program; FEMA rates and the impact to the entire state; private insurers regarding flood insurance; what was FEMA studying during the next four years; and concerns of the banking industry regarding the high FEMA flood insurance rates.

IV. JOINT SESSION – AUDIT COMMITTEE

Audit Committee Chair Rodwell noted he had attended the meeting Council had with all the Town Committee representatives last month where he had briefly reviewed the history, work, and responsibilities of Audit Committee. He noted the primary duty of the Committee, per FL Statute 218.391, was to select an auditor. He discussed other audit oversight duties as recommended in the Auditor Selection Guidelines prepared by the Auditor Selection Task Force established by the Auditor General.

Audit Committee Chair Rodwell, Audit Committee Members, and Council discussed the other Committee oversight purposes:

- Monitoring the audit – insuring the audit was on schedule, be aware of potential problems, and illegal acts that required immediate action.
- Review the financial statements prior to the completion of the audit – emphasis was on changes in the financials compared to the prior year.
- Review the results of the audit - in order to understand problems identified by the auditor and to provide background for resolution of problems.
- Evaluate proposed corrective action and insure that corrective action was carried out.
- Evaluate auditor performance – identify and recommend improvements in the auditor's performance.
- Water Utility Policies and Procedures – requested approval for the Committee to be able to completed the policies and procedures.
- Estero Boulevard Stormwater System – financing for the project; investigation by the Committee regarding potential State funding available for stormwater systems.

Council Member Hosafros offered kudos to the Audit Committee for their hard work on behalf of the Town.

Audit Committee Chair Rodwell requested Council discuss the Committee's presentation at a Regular Meeting so they may give formal direction to the Committee.

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V. JOINT SESSION - BAY OAKS RECREATIONAL CAMPUS ADVISORY BOARD (BORCAB)

BORCAB Chair Simpson briefly reviewed the history, work, and responsibilities of BORCAB and pointed out that Bay Oaks was for both children and adults; and complimented the outstanding staff and volunteers at the Center. She reviewed the many events BORCAB was involved with such as but not limited to the 4th of July Parade, Halloween event, and Shrimp Festival. She discussed accomplishments and 'soon to be accomplishments' of BORCAB such as but not limited to the relocation of the dumpsters, the window in the weight room, a new welcome desk, and a new gym floor. She reviewed various programs, classes, on-going projects, as well as work to obtain improved signage for BORCAB and to create the "Friends of Bay Oaks".

Adam Leight, Parks & Recreation, described staff's work on the creation of a fitness/running trail at Bay Oaks.

Discussion ensued concerning the inclusion of fitness stations on the proposed running trail.

Betty Simpson, Chair, reported BORCAB was approached by a resident who expressed their interest in having an amphitheater at the Center. She recognized Parks & Recreation Director Norton regarding the matter of staffing.

Parks & Recreation Director Norton discussed the number of part-time and full-time staffers and volunteers at Bay Oaks and pointed out there were more than 2,000 new members since the start of "Every Resident is a Member" Program and the increased participation rate.

Betty Simpson, Chair, continued to discuss the Bay Oaks staff and their responsibilities; and complimented each staff member for their work. She noted Club Rec increased from 20 to 60 participants and the increase in 'patron counts'. She described the Action Register prepared by staff that was given to BORCAB that kept them informed of various matters at the Center.

Tom Myers, BORCAB member, complimented the staff and volunteers at Bay Oaks for doing a great job.

Betty Simpson, Chair, questioned if Council felt the Committee was "living up to their full potential".

Discussion ensued regarding BORCAB; how Bay Oaks was a large part of the Town's budget; advantages the facility provided for the residents; signage on Estero Boulevard to better identify the facility's location; and an existing vacant piece of property that could connect Bay Oaks to Estero Boulevard and potential safety concerns if a by-pass for traffic was created with the subject property.

Betty Simpson, Chair, described a 'poker run' fund raising event for Bay Oaks which raised about \$3,000. She reported there was currently one vacancy on BORCAB.

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Town Clerk Mayher noted that appointments to the Town advisory committees would be on the Council's agenda tonight.

VI. PRESENTATION – Survival Beach, Larry Baldwin & John Matthews, Eident Racing

John Matthews, President of Eident Racing, offered a brief background on Eident Racing, as well as, the types of races offered and the locations of the races produced by the company. He noted *Survival Beach* was started in 2013 and the goal was to have the 2014 event increase to 750 contestants during the Thanksgiving weekend.

Larry Baldwin, Eident Racing, gave a presentation on what was *Survival Beach* (obstacle race & 10K run) and indicated they hoped to combine their event on November 29th this year with the sand sculpting event held that weekend. He described the proposed route for the 5-hour run event; and how it could be incorporated into the sand sculpting event activities. He questioned the jurisdictional authority at the south end of the beach; if they could hold a 10K race at Lover's Key on November 30th [7:15 a.m. to 9:00 a.m.]; and if they could obtain access to the bicycle lane from the bridge north to the Wyndham Resort entrance and then come down and finish at the beach where the sand sculpting tent was located. He reported he spoke to a staff member at Lover's Key who was "on-board" for the event. He continued describing how they would handle the designation of the route for the participants.

Discussion ensued regarding closing the bridge; the proposed run route; safety concerns regarding adding more people to the existing sand sculpting event; existing parking issues with the sand sculpting events; portions of the proposed run route on private property and within or near the Critical Wildlife Area; and the Mean High Tide Line as it pertained to private property lines.

Environmental Sciences Coordinator Laakkonen indicated on an aerial photograph that the proposed run route did cross into the Critical Wildlife Area; where there were high rates of erosion along the proposed route; and areas of the proposed run route that crossed State-owned land.

Discussion was held regarding obstacles and logistical problems for the proposed event if it was held on Thanksgiving Weekend during the sand sculpting event; potentially holding the proposed event during the Shrimp Festival; and traffic issues/concerns that the event would encounter at the south end of the island during the sand sculpting event.

John Matthews, President of Eident Racing, discussed the flexibility of the proposed event and how they could change aspects of the event.

Discussion continued regarding the advantages of holding the proposed event during the Shrimp Festival; issues with obtaining consent from private property owners along the route; and problems with the Critical Wildlife Area, State-owned land, and closing the bridge.

Discussion was held concerning the Eident Racing's half marathon-marathon event.

VII. COUNCIL MEMBER ITEMS

Mayor Cereceda displayed and questioned plaques that had been located.

Council Member Mandel explained how a few years ago the Town had created the plaques to be placed on buildings that were determined to be of historical significance by the Historic Preservation Board.

Planning Coordinator Overmyer reported he knew of nine plaques that were pre-dated so he believed they had been contemplated for specific properties.

Council Member Andre suggested Planning Coordinator Overmyer contact A.J. Bassett about the plaques who had indicated to him that she had worked on the subject plaques as it pertained to the historic recognition/designation of certain buildings.

Mayor Cereceda stated she would contact Bill Van Duzer for input on the subject plaques.

Discussion was held regarding the subject plaques; and Planning Coordinator Overmyer was instructed to install the subject plaques at the 7-8 locations he knew of, and then the Mayor would contact Bill Van Duzer to determine the other 1-2 locations for the subject plaques.

Vice Mayor Andre – recounted his experience with seeing paddleboards at Pink Shell and that none of the users had life vests on or on the paddle boards.

Environmental Sciences Coordinator Laakkonen reported staff would reach out to the vendors to insure the regulations were followed.

Vice Mayor Andre – asked if he encountered a beach chair rental vendor renting paddleboards should he contact Environmental Sciences Coordinator Laakkonen.

Environmental Sciences Coordinator Laakkonen explained, depending upon the location, he could either call himself or Code Enforcement.

Discussion was held regarding beach chair rentals renting paddleboards; the increased number of locations renting various types of equipment in the Downtown zoning district; limiting the number of locations allowed to rent various types of equipment on the beach in the Downtown zoning district; Section 34-1 permitted uses (rental of beach furniture – permitted use in the Downtown zoning district); private property lines to the Erosion Control Line; and differences/restrictions between a home occupation and a commercial use.

Environmental Sciences Coordinator Laakkonen reported that the PWVL and PAL vendors were instructed to begin negotiations among themselves prior to sitting down with staff. He added that an industry meeting was scheduled for this week.

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Discussion ensued regarding the size of business area [percentage of business area] for PWVL and PAL vendors.

Council Member Stockton – reported she attended the Local Planning Agency last week after which she believed the Town needed to create some type of TDR program or plan or policy to define ‘proximity’ as soon as possible.

Mayor Cereceda concurred that a Transfer of Development Rights (TDR) policy was another zoning/land use issue and that TDRs needed to begin with the LPA [with Council’s direction] and then come back to Council for a policy decision.

Discussion was held concerning how to begin with having the LPA review TDRs and the definition of ‘proximity’; the features and differences between a TDRs, Transfer of Development Units (TDUs), and a variance request; and the LPA’s recent review and decision of the Seagrape subdivision request.

Town Attorney Rooney noted that Council might decide on how they want to handle the issue of a TDR policy when they have the hearing on the Seagrape request in August.

Council Member Mandel suggested a workshop on the matter of TDRs prior to the subject hearing in August.

Discussion was held to schedule a workshop on TDRs prior to the August public hearing on the Seagrape subdivision request.

Mayor Cereceda reported she would not be present for the August 4th meetings.

Council Member Mandel indicated he would not be present for the August 4th meeting, but could change his schedule to be present on August 4th.

Discussion ensued regarding the Council’s August meeting schedule; and consensus was that Council’s first meeting in August would be on the 18th.

Mayor Cereceda announced she sent emails to staff members questioning if they had any important or pressing issues that needed clarification or direction from the Council prior to their hiatus.

Town Attorney Rooney stated his intention was to request Council, during their hiatus, to look at not only recent land development code issues but also administrative variance provisions and essentially go through the codes to list issues that the Council wanted the LPA to review for consideration (i.e. marine facilities code, accessory uses, temporary parking signs, etc.).

Planning Coordinator Overmyer explained that staff wanted to get back into the practice of not scheduling the public hearings with Town Council until after the LPA adopted their minutes.

Town Attorney Rooney explained how he would approach addressing and clarifying the list of code issues he would receive from Council, staff, and stakeholders.

Council Member Hosafros reviewed her earlier comments regarding the size of a business area [percentage of business area] for PWVL and PAL vendors as it related to the beach equipment rented by the vendor. She also questioned if it would be possible to limit the rental of beach equipment by short-term vacation rentals to only their guests.

Town Attorney Rooney offered his comments and would investigate the matter further.

Discussion was held regarding beach equipment rentals by PWVLs and PALS and short vacation rentals.

Council Member Hosafros – pointed out she received an email from the Florida League of Cities (FLC) requesting a designee for various committees.

Council Member Mandel reported he was on the Tax & Finance Committee and requested to remain on the Committee.

Discussion was briefly held regarding when the FLC committees met.

Town Clerk Mayher noted adoption of the budget would occur at the two September meetings in the evening.

Council Member Andre – discussed an email he received that commented on the Council should be reading “the building plans”; and he explained how he would respond to the email.

Mayor Cereceda discussed her views on the extent Town Council should become involved in permitting, reviewing plans, etc. and what issues staff should bring to Council.

Town Attorney Rooney explained how in the Town Manager form of government that typically the only legal authority the Council had involving itself with individual property decisions or individual administrative decisions were the authority it gave itself under the Town Charter, Comprehensive Plan, or Land Development Code. In Fort Myers Beach, if there was a question of interpretation, the matter could be brought to the Council for [what he called] the ‘second stage of legislative policy direction’.

Discussion was held concerning code interpretations (i.e. height and setback issues regarding decks, pools, etc.) by staff and Council; code glitches; and a balance between residential property owner rights and developer’s interests.

Ken Miller, Building Safety Services Coordinator, reviewed the permit application process which included but was not limited to staff review and levels of staff authority.

Town Manager Stilwell explained how the Town Manager position would be involved in the review of a permit application by staff.

Discussion was held concerning Council's involvement in permitting approvals (i.e. variance requests).

Town Attorney Rooney indicated he had intended to bring forth a moratorium for Council's consideration so the Council could address policy issues; however, with the reality of the number of permits the Town receives and the permitting workload it would bring the Town to a grinding halt plus the potential for lawsuits would not allow him to make that type of recommendation. He described how he would approach addressing and clarifying the list of code issues from input he would receive from Council, staff, and stakeholders.

Town Manager Stilwell noted the Town was missing three staff members in the Building and Zoning area and added that the number of building permits had doubled this year from last year (first five months of the year).

Discussion was held concerning hiring temporary help for the Building and Zoning area.

Council Member Hosafros – noted the discussion at a previous meeting by Ms. Hill regarding plans for beautifying the entrance at the bridge. She indicated it was her understanding the matter was to be placed on a Council workshop and questioned the status of the issue.

Town Clerk Mayher stated she recently received the back-up materials for the matter and requested direction.

Discussion was held concerning the beautification at the entrance of the bridge.

Environmental Sciences Coordinator Laakkonen reported he met with Ms. Hill on the matter and that Ms. Hill intended to get a group together to discuss the matter further, and Ms. Hill intended to meet with Commissioner Kiker to seek some funding from the County. He added that when she organized her group and scheduled her next meeting that staff would attend.

Discussion was held concerning Council's review of the plans by Ms. Hill; plantings would be within the State right-of-way; the Town's involvement with maintenance of the plantings; the Lee County Roadside Beautification Program; and consensus was to place the matter on the August 18th Work Session Agenda.

Town Clerk Mayher announced the Internet and broadcast was down and Comcast was working out on Estero Boulevard at this time.

Council Member Hosafros – discussed the email from the Florida League of Cities requesting a designee for committees (Finance Taxation; Energy, Environmental and Natural Resources; Transportation & Intergovernmental Relations; Urban Administration; Growth Management & Economic Affairs).

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Discussion was held concerning the Florida League of Cities request for designees to the various committees and meeting dates and meeting locations for the subject committees.

Consensus was to discuss the Florida League of Cities request further at tonight's Regular Meeting.

Mayor Cereceda – questioned if there was any opposition to having the Town sign the letter regarding the Southwest Florida Community Foundation; and no objection to the Southwest Florida Community Foundation letter was noted.

Council Member Mandel – no items.

VIII. ADJOURNMENT

Meeting adjourned at 1:42 p.m.

Adopted _____ With/Without changes. Motion by _____

Vote: _____

Michelle D. Mayher, Town Clerk

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